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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,627	11/28/2001	Bruce Ferguson	5650-02200	7113
7590 10/07/2004				
Jeffrey C. Hood Meyertons Hood Kivlin Kowert & Goetzel PC P.O. Box 398 Austin, TX 78767			EXAMINER ALAM, SHAHID AL	
			ART UNIT 2162	PAPER NUMBER

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/997,627	FERGUSON ET AL.	
	Examiner	Art Unit	
	Shahid Al Alam	2172	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7 - 10, 15 - 28, 39 - 41, 48 - 51, 56 - 64 and 75 - 77 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 7 - 10, 15 - 28, 39 - 41, 48 - 51, 56 - 64 and 75 - 77 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04 OCT 2003 and 06 25 2002</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

1. This action is in response to Election/Restrictions requirement.
2. Claims 7 – 10, 15 – 28, 39 – 41, 48 – 51, 56 – 64 and 75 – 77 are pending in this Office action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7 – 10, 15 – 28, 39 – 41, 48 – 51, 56 – 64 and 75 – 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 5,826,249 issued to Richard Skeirik ("Skeirik") in view of U.S. Patent Number 6,427,141 issued to Stephen Barnhill ("Barnhill").

With respect to claim 7, Skeirik teaches a method for constructing a list containing at least two training sets (column 6, lines 61 – 63);

constructing a new training set and replacing an oldest training set in said list with said new training set (column 15, lines 45 – 52);

retrieving training input data from a historical database, wherein said training input data has one or more timestamps (column 6, lines 45 – 52 and column 16, lines 45 – 47);

selecting a training input data time period based on said one or more timestamps (column 15, lines 60 – 67); and

retrieving an input data indicated by said training input data time period (column 6, lines 46 – 53).

Skeirik does not explicitly teach training the support vector machine using said at least two training sets in said list as claimed.

Barnhill discloses claimed training the support vector machine using said at least two training sets in said list (column 2, lines 64 – 66).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Barnhill with Skeirik because support vector machines of Barnhill provide a desirable solution for the problem of discovering knowledge from vast amount of input data (column 2, lines 40 – 42; Burnhill).

As to claim 8, monitoring substantially in real-time for new training input data; and retrieving input data indicated by said new training input data to construct said new training set (column 20, lines 24 – 28; Skeirik).


As to claims 9 and 10, uses said at least two training sets once and uses said at least two training sets at least twice (column 6, lines 61 – 63; Skeirik).

The subject matter of claims 15 – 28, 39 – 41, 48 – 51, 56 – 64 and 75 – 77 are rejected in the analysis above in claims 7 – 10 above and these claims are rejected on that basis.

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Al Alam whose telephone number is (703) 305-2358 (Effective October 21, 2004, the new number should be (571) 272-4030). The examiner can normally be reached on Monday-Thursday 8:00 A.M. - 4:00 P.M.. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (703) 305-9790 (Effective October 21, 2004, the new number should be (571) 272-4107).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Shahid Al Alam
Primary Examiner
Art Unit 2172

30 September 2004